

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Jesus is the Answer Church)	
	District 16, Map 128H, Control Map 128H,)	
	Parcel 9)	Wilson County
	<i>Claim of Exemption</i>)	

INITIAL DECISION AND ORDER

Statement of the Case

This is an appeal from the partial denial of an application for exemption of the subject property from ad valorem taxation. The application was filed with the State Board of Equalization (the "State Board") on April 13, 2006. By letter dated September 22, 2006, after granting the exemption for the church and 2.5 acres of land, State Board staff attorney Mark Aaron notified the applicant of the partial denial of the house on the grounds that:

"The parsonage house, however, appears to be currently unoccupied and unused. The law requires that property be put to actual and regular religious use in order for it to qualify for tax exemption. Therefore, the parsonage house and 0.1 (one-tenth of an) acre of supporting land are denied exemption and shall remain taxable at this time.

Jesus in the Answer Church, the applicant, timely appealed the staff attorney's initial determination to the State Board on October 31, 2006, pursuant to T. C. A. § 67-5-212(b)(2). The undersigned administrative judge conducted a hearing of this matter on April 23, 2007, in Nashville, Tennessee. Pastor Robert Scales, III, represented the interest of Jesus is the Answer Church. Mr. Jimmie Locke, the Wilson County Assessor of Property and Mr. Larry Joyner, Deputy Assessor, also from Wilson County Office was present.

Findings of Fact and Conclusions of Law

On March 15, 2006, Jesus is the Answer Church purchased the improved property commonly known as 332 West Main Street in Watertown, Wilson County, Tennessee from the United Methodist Church. The purchase included the sanctuary and a house located 20 to 30 feet from the actual church. Pastor Scales testified at the hearing that the house is used for storing tapes¹, or intermittently for homeless persons and is occasionally used for Sunday school. In the

¹Pastor Scales indicated that he has a television ministry and he is on TV 7 days a week.

future, he intends to have a recording studio built and remodel part of it for office space as the church has no office space available. Mr. Locke indicated that the County has no problem with the Church being granted full exemption for the house; unfortunately, the law is quite clear on State's statutory guidelines.

Article II, section 28 of the Tennessee Constitution authorizes, but does not require, the legislature to exempt from taxation property which is "used for purposes purely religious, charitable, scientific, literary, or educational." Under this authority, the General Assembly has decreed that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is **occupied and used by such institution or its officers** purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists... [Emphasis added.] T. C. A. § 67-5-212(a) (1) (A).

In this state, property tax exemptions are liberally construed in favor of religious, charitable, scientific, and educational institutions. *See, e.g., Christian Home for the Aged, Inc. v. Assessment Appeals Commission*, 790 S.W.2d 288, 291 (Tenn. Ct. App. 1990). Nevertheless, as the party appealing from the initial determination on its application for exemption, Jesus is the Answer Church has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

During the application process, Pastor Scales wrote a letter to the State Board dated, June 26, 2006, in which he indicated, "Currently, there is no one living in the property. If this situation changes, in the future, we will submit any necessary amendments." There is no indication in the record or the file that 'any necessary amendments' were received however by letter dated October 19, 2006, Pastor Scales stated, "Upon, our original request date June 26, 2006; the parsonage was not being occupied but was undergoing renovations to improve its living conditions. Those upgrades were completed at the end of June 2006. Currently, as of July 2006, Minister Kevin Durham, a full-time staff Minister of Jesus is the Answer Church resides in the parsonage. Classes are held weekly by Minister Kevin Durham for Bible Studies". (Photographs, exhibit #1, were submitted at the hearing to show that two (2) bedrooms have beds in them, and one room has what appear to be recording supplies and one room is set up with chairs and a lectern.).

As Administrative Judge Pete Loesch noted in New Fellowship Ministries, (Hawkins County, Initial Decision and Order, October 13, 2006):

NFM undoubtedly qualifies as a religious institution under T. C. A. § 67-5-212. *Yet, based on the factual situation at the time, the staff attorney's ruling on the application was clearly correct.* Arguably, an applicant for exemption should not be allowed to submit new or additional information in an appeal from an initial determination. For better or worse, however, the Assessment Appeals Commission appointed by the State Board pursuant to T. C. A. § 67-5-1502 has followed the more lenient policy that "until an application is finally determined, the Board. . . should consider all pertinent evidence relative to the application at hand." Beth Sholom East Memphis Synagogue, Inc. (Shelby County, final Decision and Order, May 16, 2001). p3

The testimony at the hearing establishes that the parsonage house that was denied exemption is now actively being used by Jesus is the Answer Church, so in the administrative judge's opinion the entire property should be exempt.

Order

It is, therefore, ORDERED that the subject parcel shall be exempt from ad valorem taxation, effective March 15, 2006.

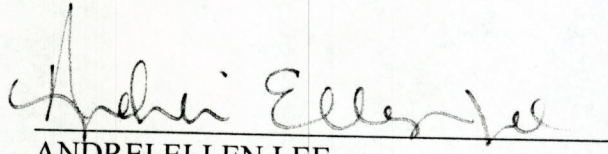
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order";** or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is

requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of May, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Pastor Robert H. Scales, III, Jesus is the Answer Church
Jimmie Locke, Wilson County Assessor of Property